

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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FUJIFILM CORPORATION)
) Civil Action No. 05cv1863 (KSH)(PS)
) Plaintiff,)
)
 v.)
)
 JACK C. BENUN)
 JAZZ PRODUCTS LLC,)
 POLYTECH ENTERPRISE LTD., and)
 POLYTECH CAMERA (SHENZHEN) CO.)
 LTD.,)
) Defendants.)
)
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FINAL ORDER AND JUDGMENT

This patent infringement action, having been commenced on April 18, 2005 by the filing of a complaint by FUJIFILM Corporation (“Fuji”) against Jack C. Benun (“Benun”), Jazz Products LLC, formerly Ribi Tech Products LLC (“Jazz Products”), Polytech Enterprise Ltd. (“Polytech HK”), and Polytech Camera (Shenzhen) Co. Ltd. (“Polytech China”) (collectively, “Defendants”); a trial on the merits having been held beginning on June 2, 2009; the jury having rendered a unanimous verdict on June 12, 2009; and the Court having considered Fuji’s submissions in support hereof and considered Defendants’ opposition thereto by letter dated 6/18/2009, D.E. 425, as well as the submissions in support and opposition to Defendants’ motions under Rules 50 and 59, Fed. R. Civ. P.; and

it appearing that all prerequisites to the entry of a Final Order and Judgment have been met, for good cause shown;

It is on this 22nd day of July, 2009, hereby **ORDERED** that:

1. Defendant's motions under Rules 50 and 59, Fed. R. Civ. P., are denied;
2. Polytech HK's sale of (i) 3,922,852 single use cameras to Jazz Photo Corp. ("Jazz Photo") from April 2003 through December 12, 2003; (ii) 582,831 single use cameras to Jazz Photo from December 13, 2003 through February 2005; and (iii) 112,504 single use cameras to Jazz Products from March 2005 through the end of 2007, totaling 4,618,187 single use cameras, infringed Fuji's patent rights;
3. Jazz Products' sale of 142,117 single use cameras in the United States from 2005 through 2008 infringed Fuji's patent rights;
4. Benun induced Jazz Products' infringement with respect to 142,117 single use cameras in violation of 35 U.S.C. § 271(b);
5. All Defendants' sales of infringing single use cameras in paragraphs 2 through 4 above were willful;
6. Fuji was damaged as a result of Defendants' infringement in the total amount of \$11,736,374 against Polytech HK, and \$2,784,234 against Jazz Products and Benun; these amounts representing the number of infringing single use cameras multiplied by a royalty of \$2.00, plus a lump sum of \$2,500,000 against all Defendants, and thus
 - (a) Polytech HK, Jazz Products and Benun are jointly and severally liable to Fuji for \$2,784,234; and

(b) Polytech HK is also liable for an additional \$8,952,140, for a total infringement liability of \$11,736,374, against which shall be credited \$6,375,000.

7. Judgment is hereby GRANTED in favor of Fuji in the amount of \$11,736,374 against Polytech HK and in the amount of \$2,784,234 against Jazz Products and Benun; said \$2,784,234 being the joint and several liability of Jazz Products, Benun and Polytech HK out of said \$11,736,374;
8. Fuji's application for prejudgment interest, a permanent injunction and costs is granted;
9. Fuji's application for enhanced damages and attorney fees is denied;
10. Judgment is hereby GRANTED in favor of Fuji for prejudgment interest on the damages verdict calculated at the prime rate compounded quarterly for a total amount of \$788,519 jointly and severally against Jazz Products, Benun and Polytech HK, and of an additional amount of \$3,549,027 against Polytech HK;
11. Judgment is hereby GRANTED in favor of Fuji and against Defendants in the amount of \$117,486 representing the attorney fees awarded as a result of Defendants' contempt as found by this Court on May 16, 2007;
12. Defendants' sale of infringing cameras after June 15, 2005, as found by the jury, was in contempt of this Court's Preliminary Injunction dated June 15, 2005 in this case;
13. Polytech HK, Jazz Products and Benun's failure to pay Fuji \$117,486, ten days after May 16, 2007, was in contempt of this Court's Order dated May 16, 2007 in this case;

14. In sum, Fuji is granted a judgment of \$16,191,406 against Polytech HK, of which Benun and Jazz Products are jointly and severally liable for \$3,690,239;
15. Pursuant to 34 U.S.C. § 283 Defendants, their predecessors, successors, assigns, owners, officers, directors, agents, servants, employees, and attorneys, including without limitation Jack Benun, Suk Yee Szeto a/k/a Jessie Szeto, Tai Tai Titi Wong a/k/a Kitty Wong, Michal Zawodny and all persons in active concert or participation with any of them, for the duration of United States Patent Nos. 5,235,364, 5,361,111, 5,381,200, 5,408,288, 5,436,685, D372,722 (“the Fuji Patents”), **are permanently enjoined and restrained**, from directly or indirectly (a) importing, making, using, offering for sale, or selling within the United States, or making or selling outside the United States for sale in or to the United States, any single use camera that infringes any claim of any of the Fuji Patents still in force; (b) inducing the infringement of any claim of any of the Fuji Patents still in force; and (c) importing, making, using, offering for sale or selling within the United States, or making or selling outside the United States for sale in or to the United States, any refurbished single use camera made from the shell of a single use camera that infringes any claim of any of the Fuji Patents still in force and was not first sold in the United States by Fuji or its licensees;
16. The surety bond in the amount of \$250,000 posted by Fuji in case it was determined that Defendants were wrongly restrained by the Order Granting Plaintiff’s Motion for a Preliminary Injunction dated June 15, 2005, is no longer required; and

17. Defendants shall within ten (10) days from the date of this Final Order and Judgment give written notice of this permanent injunction to all of the persons known to them to be covered by this permanent injunction.

IT IS SO ORDERED

Dated: July 22, 2009
at Newark, New Jersey

HONORABLE KATHARINE S. HAYDEN

/s/Katharine S. Hayden, U.S.D.J.
UNITED STATES DISTRICT JUDGE